

Service Date: February 25, 2000

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF the Petition of Avista)	UTILITY DIVISION
Communications, Inc. for Temporary Local)	
Number Portability Relief Pursuant to 47 U.S.C.)	DOCKET NO. D2000.2.19
§ 251(f)(2))	ORDER NO. 6231

ORDER ON PETITION FOR TEMPORARY
SUSPENSION OF DUTY UNDER 47 U.S.C. § 251(b)(2)

Background

On February 7, 2000 Avista Communications, Inc. (Avista) filed a petition for temporary suspension of its duty to provide number portability pursuant to 47 U.S.C. § 251(b)(2). Avista filed the petition pursuant to 47 U.S.C. § 251(f)(2), which applies to "local exchange carrier[s] with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide[.]" and which allows the Montana Public Service Commission (Commission) to suspend the requirements of 47 U.S.C. § 251(b) pending final action on the petition.¹

Avista states that it provides local exchange service in Billings, Montana and has fewer than two percent of the nation's subscriber lines installed in the aggregate nationwide. It states that it was informed by U S WEST Communications, Inc. (U S West) that, at the request of another carrier, U S West is going to make its Billings switch local number portability (LNP) capable by a target date of March 8, 2000. Avista further explains that it is U S West's legal position, attested to in a letter to the Commission from U S West attached to Avista's filing, that once U S West's Billings switch is LNP capable, it can no longer accept interim number portability (INP) orders from carriers like Avista, unless those carriers 47 U.S.C. § 251(b)(2) obligations have been waived or suspended. Avista says it has ordered an LNP capable switch for its Billings office, but that the

¹ The duty to provide number portability, and the opportunity for certain local exchange carriers to have that duty suspended, are also present in Montana law. 69-3-834(2)(b) and 69-3-834(5), MCA.

switch may not be installed until August, 2000. Avista claims that, in order to provide new customers with INP based service between the March 8, 2000 U S West target date to be LNP capable, and the date Avista becomes LNP capable, it needs the Commission to suspend Avista's duty under 47 U.S.C. § 251(b)(2).

Discussion and Decision

The Commission is empowered by 47 U.S.C. § 251(f)(2)(B) to suspend Avista's duty under 47 U.S.C. § 251(b)(2) pending final action on Avista's 47 U.S.C. § 251(f)(2) petition. Based on the facts presented in the petition the Commission finds it is in the public interest to suspend Avista's 47 U.S.C. § 251(b)(2) obligation pending final action on the petition. It appears that denying a temporary suspension would be contrary to Avista's interests and also, more important from the Commission's perspective, contrary to the interests of potential Avista customers. The Commission must act on Avista's petition by August 7, 2000. Following the issuance of this Order, the Commission will notice the petition and, if necessary, issue a procedural order and schedule a hearing.

Conclusions of Law

1. The Commission has jurisdiction over the Avista petition. 47 U.S.C. § 251(f)(2), 69-3-834(5), MCA.
2. The Commission has the authority to suspend Avista's duty to provide local number portability pursuant to 47 U.S.C. § 251(b)(2). 47 U.S.C. § 251(f)(2)(B), 69-3-834(5), MCA.

Order

The requirement, pursuant to 47 U.S.C. § 251(b)(2), that Avista Communications, Inc. provide number portability in its Billings, Montana exchange, is suspended pending final action on its petition.

DONE AND DATED this 15th day of February, 2000, by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chair

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner

GARY FELAND, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.